



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

February 17, 1993

Mr. William M. Hale
Executive Director
Texas Commission on Human Rights
P.O. Box 13493
Austin, Texas 78711

Letter Opinion No. 93-10

Re: Whether the Commission on Human Rights Act, V.T.C.S. article 5221k, authorizes local commissions to file civil actions in state district court (RQ-453)

Dear Mr. Hale:

On behalf of the Texas Commission on Human Rights (the "state commission"), you have asked for an opinion regarding the powers of local commissions under article 4 of the Commission on Human Rights Act, V.T.C.S. article 5221k (the "act"). Specifically, you ask whether local commissions are authorized under the act to file civil actions in state district court, as opposed to municipal or county court.

The act establishes the state commission and confers upon it the authority "to receive, investigate, seek to conciliate, and pass on complaints alleging violations of [the act], and file civil actions to effectuate the purposes of [the act]." V.T.C.S. art. 5221k, § 3.02(a)(6). The state commission is authorized to file a civil action alleging unlawful employment practices in state district court. *Id.* §§ 6.01, 7.01.

Section 4.02 of the act authorizes a political subdivision or two or more political subdivisions acting jointly to create a local commission. The scope of local commissions' authority is set forth in article 4. Section 4.03 of that article provides in relevant part:

A local commission may exercise the following powers in addition to other powers authorized by this Act or other laws:

....

(5) to receive, investigate, seek to conciliate, and pass on complaints alleging violations of this Act, and file civil actions to effectuate the purposes of this Act if the federal government or

state commission has referred the complaint to the commission or has deferred jurisdiction over the subject matter of the complaint to the commission.

Section 4.04 deals with referral of complaints to local commissions. It provides as follows:

(a) The state commission shall refer a complaint filed with it to a local commission with the necessary investigatory and conciliatory powers if the complaint concerns discrimination in employment because of race, color, disability, religion, sex, national origin, or age, and

(1) the complaint has been referred to the state commission by the federal government; or

(2) the jurisdiction over the subject matter of the complaint has been deferred to the state commission by the federal government.

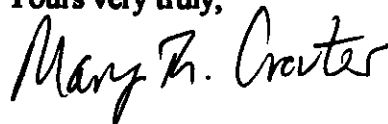
We believe that article 4 authorizes local commissions to file civil actions in state district court in certain circumstances. Section 4.03(5) authorizes local commissions "to receive, investigate, seek to conciliate, and pass on complaints" alleging violations of the act referred by the state commission and to "file civil actions to effectuate the purposes of" the act. *See also* Attorney General Opinion JM-228 (1984) (concluding that section 4.03(5) authorizes a local commission to file civil actions without a local ordinance authorizing such action). This language describing local commissions' authority is almost identical to the language describing the state commission's authority in section 3.02(a)(6). Also *compare* V.T.C.S. art. 5221k § 4.03(7) (setting forth local commissions' subpoena powers) *with id.* § 3.02(a)(7) (setting forth state commission's subpoena powers). The act clearly contemplates that in certain cases local commissions will fill the role normally filled by the state commission. We believe that in such cases, the act confers upon local commissions the authority the state commission would exercise, particularly the authority to file civil actions in state district court to effectuate the purposes of the act. *See id.* §§ 6.01, 7.01.

We note that the act confers this authority upon local commissions in very limited circumstances, *i.e.*, only when "the federal government or state commission has referred the complaint to the commission or has deferred jurisdiction over the subject matter of the complaint to the commission." *Id.* § 4.03(5). The act does not authorize local commissions to file civil actions in state district court in the absence of the referral of a complaint or deferral of jurisdiction over a complaint by the federal government or state commission. Nor does the act authorize local commissions to file civil actions in state district court merely to effectuate the purposes of other laws, such as local ordinances.

S U M M A R Y

The Commission on Human Rights Act, V.T.C.S., article 5221k, authorizes a local commission to file a civil action in state district court "to effectuate the purposes of [the act] if the federal government or state commission has referred the complaint to the commission or has deferred jurisdiction over the subject matter of the complaint to the commission."

Yours very truly,

A handwritten signature in cursive script that reads "Mary R. Crouter".

Mary R. Crouter
Assistant Attorney General
Opinion Committee